IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.2500 OF 2007

Aslam @ Banti Shabbir Shaikh Jahagirdas ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr A. P. Mundargi, Sr. Advocate with Niranjan Mundargi, Advocate for the applicant.

Mr K. V. Saste, APP for the respondent.

CORAM: V.C. DAGA,J.
DATED: 19.9.2007.

P.C.

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused the application and the material available on record.

3. The applicant-original accused No.2 arrested in C.R.No. 3057 of 2006, registered with Manmad Police Station, for the offence under Sections 3 and 9 of the Official Secrets Act, 1923 and under Section 121 and 120 (B) of the I.P.C., is seeking bail under Section 439 of the Cr.P.C.

4. The present applicant-accused came to be arrested on 14.8.2006 and since then he is in jail. He has moved bail application in Sessions Court which came to be rejected on 15.12.2006.

5. Mr Mundargi, learned counsel for the applicant submits that the applicant has been falsely implicated in the present case on the basis of only panchnama dated 24.8.2006 showing seizure of contraband compact disc and counterfeit notes. He tried to demonstrate that if the prosecution wants to rely on this evidence alone, then possibility of acquittal of the accused cannot be ruled out.

6. The learned A.P.P. tried to counter the above argument and pressed into service the criminal antecedents of the applicant through various C.Rs. registered against him. He further submits that in most of the cases though he is acquitted, that by itself cannot be a ground to say he has no criminal antecedents. At this stage, it would be relevant to note that the applicant is on bail in C.R.No. 53 of 2003 for the offence allegedly committed under Section 302 read with Section 34 of the I.P.C.

7. In the above view of the matter, there is no reason to continue jail custody of the applicant any further, I am, therefore, inclined to grant bail to the applicant on following terms and conditions.

a] The applicant arrested in connection with in C.R.No. 3057 of 2006, registered with

Manmad Police Station, for the offence under Sections 3 and 9 of the Official Secrets Act, 1923 and under Section 121 and 120 (B) of the I.P.C., shall be enlarged on bail subject to furnishing a personal bond of Rs. 25,000/- with one local surety in the like amount.

b] The applicant shall report to the above Police Station twice in a week i.e. Monday and Friday in between 3.00 to 5.00 p.m. till conclusion of the trial.

c] The order of bail will be given effect only after the applicant furnish to the Investigating Officer the details about his place of residence and address where he propose to stay after he is enlarged on bail.

d] The applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not, in any manner, tamper with the prosecution evidence.

e] The applicant shall co-operate with the Investigating Officer in investigation.

f] Any observation made in this order shall

not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

8. The applicant is put on notice that on a report by the State in violating any of the conditions by him, mentioned herein, shall result in cancellation of this bail order.

9. Application is disposed of in above terms.

(V.C.DAGA,J)